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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,980	04/07/2006	Michael Vassard	2006_0475A	8772
513 7590 09/24/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER				
CHANG, SUNRAY				
ART UNIT		PAPER NUMBER		
2121				
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09/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,980

Applicant(s)

VASSARD ET AL.

Examiner

Sunray R. Chang

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2 and 4-10 is/are rejected.
7) ☒ Claim(s) 3 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

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Examiner's Detailed Office Action

1. This Office Action is responsive to communication, filed on April 7th, 2006.

Preliminary amendment has been received with original application.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation, "the drilled at two predetermined points each corresponding to a target point defined by predetermined command coordinates", as claimed in claim 3, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 10 has been given objection under 37 CFR 1.75(c), for being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. All limitations in claim 10, which depends from claim 1, can be found in independent claim 1.

Double Patenting

4. **Claims 1 – 10 are rejected** on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 20 of Patented Application No. 10/548,466, (U.S. Patent No. 7,191,030). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Both applications claim the method of measuring offsets (angular / location) and further calibrates the tools (drilling/grinding), using a workpiece (template/reference part) to work on, then using optical method to measure the offsets.

This is non-provisional obviousness-type double patenting rejection because the conflicting claims have in fact been patented on March 13th, 2007.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. **Claim(s) 1, 2, 4 – 6, 8 – 10 is/are rejected** under 35 U.S.C. 103(a) as being unpatentable over Laurent Guillermin (U.S. Patent No. 5,806,198, and referred to as **Guillermin** hereinafter), and in view of Friedrich Kilian et al. (U.S. Patent No. 5,304,773, and referred to as **Kilian** hereinafter), further in view of Kenneth J. Susnjara (U.S. Patent No. 6,480,757, and referred to as **Susnjara** hereinafter).

Regarding claim(s) 1 and 10,

Guillermin teaches,

- Method of calibrating an ophthalmic lens machine; [Abstract]
- an ophthalmic lens support associated with a first coordinate system; [13, fig. 2]
- programmable means for guiding the tool, which are associated with a second coordinate system expressing command coordinates which define a target point [col. 6, lines 33 – 36]

- a template is placed on the support, the template having pre-applied markings defining a third coordinate system related to the said template, such that the third coordinate system is made to substantially coincide with the first coordinate system; [calibration template, title, Abstract, specification]

The examiner further explains, **Guillermin** reference teaches a method to calibrate a an ophthalmic lens grinding machine (which is similar with applicants' patent 7,191,030), includes calibration method using a calibration template, supporting tools; **Guillermin** reference does not teach drilling tools and a camera to get the image of the offset, yet, applicants are claiming a method for calibrating machines, drilling tool or optical method are not considered as an invention in current application.

Kilian teaches,

- the template is drilled, a real drilling point is obtained, an image of the template drilled is created; the said image is analyzed by image analysis means, so as to measure the offset between the position of the real drilling point and the position of the target point; and the guidance means are programmed so as to introduce a correction of the command coordinates capable of compensating for the said offset. [fig. 9 – 12; a laser work station in which a workpiece guidance system may be calibrated to reflect the actual position of the workpiece therein, col. 1, lines 7 – 10; sensor, col. 8, line 3 – col. 9, line 18] for the purpose of indexing the sensor assembly to a preselected position relative to the approximate position of a reference formation on the workpiece, and moves it in a predetermined path from the preselected position to sense passage of the beam over the edge of the reference formation, and the work station uses data obtained from such sensing of the passage of the beam over

the edge of the reference formation to adjust the coordinates of the guidance system to reflect the actual position of the workpiece [Abstract];

Susnjara teaches,

- a drilling tool; [a workpiece 35 is mounted to the worktable 108 to receive work functions such as routing, shaping, drilling and the like, col. 2, lines 36 – 49] for locating a workpiece on a computer numeric controlled machining system [col. 1, lines 7 – 8]

It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teaching of **Guillermin** to include the teaching of **Kilian** and **Susnjara**, for the purpose of indexing the sensor assembly to a preselected position relative to the approximate position of a reference formation on the workpiece, and moves it in a predetermined path from the preselected position to sense passage of the beam over the edge of the reference formation, and the work station uses data obtained from such sensing of the passage of the beam over the edge of the reference formation to adjust the coordinates of the guidance system to reflect the actual position of the workpiece [**Lilian**, Abstract] and locating a workpiece on a computer numeric controlled machining system [**Susnjara**, col. 1, lines 7 – 8].

Regarding claim(s) 2,

Kilian teaches the method according to claim 1, characterized in that

- the markings defining the third coordinate system comprise markings which define a centre and markings which define two orthogonal axes. [P1, P2, X-axis and Y-axis, col. 8, lines 54 – 55; examiner's explanation: X-axis and Y-axis is necessarily to have a cross at the original point which is the center]

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 3 claims using two predetermined points and using the mean value of the offsets of the position of the two real drilling points. The applicants have been suggested to further include drawings to present limitations in claim 3 to overcome the objection to the drawings and to include the limitations in claim 3 into claim 1.

Regarding claim(s) 4 and 9,

Kilian teaches,

- an image capture device; image analysis means connected to the said image capture device, adapted to detect the position of the image of a real drilling point of a template, in a coordinate system defined by the image of markings appearing on the said template, and to calculate an offset of position of the said image with respect to a predetermined target point defined by pre-recorded coordinates; and programming means connected on the one hand to the image analysis means and on the other hand to the means of guiding an ophthalmic lens drilling machine, the said programming means being adapted to receive an offset information element from the image analysis means, and to program the guidance means of the machine in response, so as to introduce a correction of the command coordinates as a function of the said offset information. [fig. 9 – 12; a laser work station in which a workpiece guidance system may be calibrated to reflect the actual position of the workpiece therein, col. 1, lines 7 – 10; sensor, col. 8, line 3 – col. 9, line 18]

Regarding claim(s) 5 and 8,

Kilian teaches, device according to claim 4, characterized in that it additionally comprises

- a screen and means for illuminating an ophthalmic object, enabling a shadow of the template to be projected on to the screen, the said screen being placed in the field of observation of the said image capture device. [Position determining means, col. 2, lines 29 – 41]

Regarding claim(s) 6,

Kilian teaches, device according to claim 5, characterized in that it comprises

- a transparent support to receive the template, positioned between the means of illumination and the screens. [38, fig. 14]

6. **Claim(s) 7 is/are rejected** under 35 U.S.C. 103(a) as being unpatentable over **Guillermin** in view of **Kilian**, **Susnjara**, and further in view of Kazumi Haga et al. (U.S. Patent No. 5,497,234, and referred to as **Haga** hereinafter)

Haga teaches, a collimator positioned between the means of illumination and the transparent support to make the light rays emitted by the means of illumination substantially parallel to each other and normal with respect to the support. [The collimator lens arranged between the beam splitter and the sample surface is used for converting the lights passed through the pinhole into parallel lights as well as for converge the lights reflected by the sample surface, col. 3, lines 54 – 62], for converting the lights passed through the pinhole into parallel lights [col. 3, lines 54 – 62]

Correspondence Information

7. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Sunray Chang, who may be reached Monday through Friday, between 6:00 a.m. and 3:00 p.m. EST, or via telephone at (571) 272-3682 or facsimile transmission (571) 273-3682 or email sunray.chang@uspto.gov.

If you need to send an Official facsimile transmission, please send it to (571) 273-8300.

If attempts to reach the examiner are unsuccessful in the regular office hour, the Examiner's Supervisor, Albert Decady, may be reached at (571) 272-3819.

Hand-delivered responses should be delivered to the Receptionist @ (Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22313), located on the first floor of the south side of the Randolph Building.

Finally, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Moreover, status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) toll-free @ 1-866-217-9197.

Sunray Chang

Art Unit 2121

U.S. Patent & Trademark Office

/Albert DeCady/
Supervisory Patent Examiner, Art Unit 2121
September 24, 2008
